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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,885	09/30/2005	Yasuo Omi	1141/75103	6799
23432 7590 01/19/2010 COOPER & DUNHAM, LLP 30 Rockefeller Plaza 20th Floor NEW YORK, NY 10112			EXAMINER GUPTA, VANI	
			ART UNIT 3768	PAPER NUMBER
			MAIL DATE 01/19/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/551,885

Applicant(s)

OMI ET AL.

Examiner

VANI GUPTA

Art Unit

3768

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 35 U.S.C. 112, second paragraphs.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-11, 13-19, 21 and 22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 1
13. ☒ Other: See Continuation Sheet.

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768

/Vani Gupta/
Examiner, Art Unit 3768

Continuation of 3. NOTE: Claims 1, 11, and 21 include new matter regarding obtaining information about "substantially stationary organ." Disclosure does not provide support for this feature. Examiner respectfully disagrees with Applicant's allegations that amendments to claims have not introduced new matter and new issues. On the contrary, the scope of the claims 1, 11, 21, have become narrower and different in which raises new issues. Therefore, dependent claims also are not in condition for allowance because of their dependence on claims 1, 11, and 21. More specifically, by indicating that the pixels are associated with a specific region of interest such as a substantially stationary organ narrows/changes the scope of the claims. These new issues require further search and consideration. Additionally, the addition of "substantially stationary organ" is not supported by the disclosure and therefore introduces new matter.

Continuation of 11. does NOT place the application in condition for allowance because: amendments to claims require new search and consideration. Additionally, Applicant's arguments with respect to date- applicability of Baba (WO 2004/024003) is moot in light of introduction of new issues, which require further search and consideration.

Continuation of 13. Other: Applicant does not obtain benefit of priority dates for Japanes applications Nos. 2003-101284 and 2003-345364, respectively because certified English translations of these foreign applications have not been provided to the Office. Therefore, the current effective filing date of the present application is April 2, 2004.

Changes to claims overcome 35 USC 112 second paragraph rejections, but not 35 USC 112 first paragraph rejections because of new matter.